

REMARKS

This paper is submitted in response to the Decision on Appeal dated January 13, 2009 (the “Decision on Appeal”).

Claims 1-6, 11-16, 20-23, and 31-37 are pending in the application.

Claims 1-6 stand rejected under 35 U.S.C. § 112, second paragraph.

The pending rejections arise from new grounds for rejection that were found by the Board of Patent Appeals and Interferences. The pending rejections were made under 37 C.F.R. § 41.50(b) in the Decision on Appeal, which reversed the previously pending rejections (of claims 1-6, 11-16, 20-23, and 31-37 under 35 U.S.C. § 103(a)).

In accordance with 37 C.F.R. § 41.50(b)(1) and § 1214.01 of the *Manual of Patent Examining Procedure* (Ed. 8, Rev. 7, Jul. 2008) (“MPEP”), Appellant/Applicant hereby requests that the proceeding be remanded to the Examiner, and elects to proceed before the Examiner with regard to the new rejections.

The amendments add no new matter. Support for the amendments may be found throughout Applicant’s Specification and Drawings as originally filed, for example on p. 2, lines 9-24; p. 6, lines 23-28; p. 7, lines 25-29; in FIGs. 5-6 and 9; and in original claim 1. Applicant respectfully submits that the pending claims are allowable in view of the following remarks and the above amendments, and requests reconsideration of the pending rejections.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 1-6 stand rejected under 35 U.S.C. § 112, second paragraph, as purportedly being indefinite for failing to particularly point out and distinctly claim the invention. In particular, the Decision on Appeal expresses a concern with regard to the claim language in independent claim 1, regarding a head portion having “a size substantially similar to a size of the variable-width opening.” Dependent claims 2-6 were similarly rejected due to their dependency on independent claim 1.

Applicant has amended independent claim 1. As amended, claim 1 no longer includes the claim language in question. Applicant respectfully submits that in view of these amendments, the rejection of claim 1 is now moot. Applicant respectfully submits that the rejection of dependent claims 2-6 is similarly moot.

Applicant is mindful of the Board’s concerns regarding § 112, second paragraph. The above amendments include additional amendments made in view of the requirements of § 112, second paragraph.

Applicant submits that the amended claims are allowable under § 112, second paragraph. Accordingly, Applicant respectfully requests that the rejections of claims 1-6 under § 112, second paragraph be withdrawn.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance and a notice to that effect is solicited.

Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5097.

The undersigned hereby authorizes that any fees required for this submission be charged to deposit account 502306.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Cyrus F. Bharucha', with a long horizontal flourish extending to the right.

Cyrus F. Bharucha
Attorney for Applicant
Reg. No. 42,324
512-439-5097
512-439-5099 (fax)